

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #3	CCRB Case #: 201904599	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/21/2019 1:55 AM	Location of Incident: § 87(2)(b)	Precinct: 50	18 Mo. SOL 11/21/2020	EO SOL 7/8/2021	
Date/Time CV Reported Tue, 05/21/2019 4:59 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/28/2019 11:10 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Abel Lopez	23850	963127	050 PCT
2. POF Tiffany Buccheri	09737	964946	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Tiffany Buccheri	Abuse: Police Officer Tiffany Buccheri threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.POM Abel Lopez	Abuse: Police Officer Abel Lopez threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.POF Tiffany Buccheri	Discourtesy: Police Officer Tiffany Buccheri spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.POM Abel Lopez	Abuse: Police Officer Abel Lopez entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
E.POF Tiffany Buccheri	Abuse: Police Officer Tiffany Buccheri entered § 87(2)(b) in the Bronx.	§ 87(2)(b)

Case Summary

On May 21, 2019, § 87(2)(b) filed this complaint via phone with IAB, generating log #2019-20084. The CCRB received this case on May 28, 2019.

On May 21, 2019, at approximately 1:55 a.m., § 87(2)(b) called 911 to report that his mother, § 87(2)(b) and his stepfather, § 87(2)(b) had locked him out of the § 87(2)(b), in the Bronx. Police Officer Tiffany Buccheri and Police Officer Abel Lopez, both of the 50th Precinct, arrived at the location and spoke with § 87(2)(b) who informed them that he was § 87(2)(b) years old. They entered the building and knocked on the door of § 87(2)(b). § 87(2)(b) answered the door and allegedly stated that she would not allow entry to § 87(2)(b) because of her fear of violence against her or § 87(2)(b). PO Buccheri and PO Lopez both informed § 87(2)(b) that she could be arrested if she did not allow § 87(2)(b) entry into the apartment (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) started to shout at the officers from the back end of the apartment hallway, prompting PO Buccheri to allegedly to tell him to stop arguing and adding that he was a “grow-ass man,” (**Allegation C: Discourtesy**, § 87(2)(g)). PO Buccheri then handed § 87(2)(b) a Domestic Incident Report to complete, and § 87(2)(b) entered the kitchen to the left of the entry-threshold. PO Lopez placed his foot at the door hinge to prevent it from closing. PO Buccheri entered afterward and stood in the doorway, causing § 87(2)(b) to tell the officers to shut the door. It is unknown if PO Lopez stepped out of the door (**Allegation D: Abuse of Authority**, § 87(2)(g)). PO Buccheri refused to shut the door or leave the doorway (**Allegation E: Abuse of Authority**, § 87(2)(g)). Once the report was finished, the officers left the scene. No arrests were made, nor were any summonses issued.

There is body-worn camera (BWC) footage from PO Buccheri covering the latter part of the incident (**01 Board Review**). PO Lopez had a BWC with a faulty battery; therefore, no footage was available.

Findings and Recommendations

Allegation (A) Abuse of Authority: PO Tiffany Buccheri threatened to arrest § 87(2)(b)

Allegation (B) Abuse of Authority: PO Abel Lopez threatened to arrest § 87(2)(b)

It is undisputed that PO Buccheri and PO Lopez threatened § 87(2)(b) with arrest for possibly refusing entry to § 87(2)(b). In her statement to the CCRB, § 87(2)(b) stated that PO Buccheri informed her that if she refused to allow § 87(2)(b) entry, she would have to be arrested (**02 Board Review**). § 87(2)(b) stated that the officers told § 87(2)(b) and § 87(2)(b) that they were neglecting § 87(2)(b) (**03 Board Review**). In his statement to the CCRB, PO Lopez stated that he and PO Buccheri both informed § 87(2)(b) that she could be arrested for an illegal eviction and endangerment of a minor (**04 Board Review**). PO Buccheri also stated that she and PO Lopez informed § 87(2)(b) that she could be arrested for an illegal eviction and endangerment of the welfare of a minor if she did not allow entry to § 87(2)(b) (**05 Board Review**).

Due to § 87(2)(b)'s alleged hospitalization to a psychiatric department, the investigation did not reach out to § 87(2)(b).

NYPD Event number § 87(2)(b) notes that § 87(2)(b) called 911 reporting that he was § 87(2)(b) had a dispute with his family, his mother did not give him dinner, and she was not allowing him inside (**16 Board Review**). This is consistent with the statements of PO Lopez and PO Buccheri (**04** and **05 Board Review**).

According to the New York Penal Law Section 260.10, Endangerment of a Minor consists of actions, "Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an 'abused child,' a 'neglected child,' a 'juvenile delinquent' or a 'person in need of supervision'," (**06 Board Review**). Second, the New York City Administrative Code section 26-521, a person commits an illegal eviction when they, "attempt to evict an occupant of a dwelling unit who has lawfully occupied the dwelling unit for thirty consecutive days," and furthermore, "engaging...in any other conduct which prevents or is intended to prevent such occupant from the lawful occupancy of such dwelling unit," (**07 Board Review**).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation (C) Discourtesy: PO Tiffany Buccheri spoke discourteously to § 87(2)(b)

In her statement to the CCRB, § 87(2)(b) stated that once § 87(2)(b) joined the conversation by stepping out into the hallway from the bedroom, PO Buccheri said to him, "You're a grown-ass man. You need to get back inside," (**02 Board Review**). § 87(2)(b) did not mention this statement in his initial narrative to the CCRB, and even when asked about it, he did not recall it being said to him (**03 Board Review**). However, he did note that his wife has a better memory than he does. PO Lopez did not recall PO Buccheri making any such statements (**04 Board Review**). PO Buccheri denied ever making that statement or telling § 87(2)(b) to leave the conversation (**05 Board Review**). This statement is not captured by PO Buccheri's BWC; however, the recording begins at an unspecified time after the beginning of the incident, and § 87(2)(b) is already present in the apartment during the recording (**01 Board Review**).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation (D) Abuse of Authority: PO Abel Lopez entered § 87(2)(b), in the Bronx.

Allegation (E) Abuse of Authority: PO Tiffany Buccheri entered § 87(2)(b) in the Bronx.

It is undisputed that PO Buccheri and PO Lopez entered § 87(2)(b), in the Bronx. § 87(2)(g) stated that while she walked into the kitchen to fill out the DIR, she believed that PO Buccheri put her foot in the door to keep it from closing because PO Buccheri was later standing in the doorway with the door open (**02 Board Review**). However, § 87(2)(b) did not see the actual foot in the door. § 87(2)(b) stated that he did not see the physical entry of either officer, but did see PO Buccheri approximately two feet inside of the apartment after § 87(2)(b) took a copy of the DIR to complete (**03 Board Review**). PO Buccheri stated that she could not remember if she or PO Lopez put the foot in the door, but noted that the door was prevented from closing with one of the officer's feet (**05 Board Review**).

Finally, PO Lopez stated that he was the one who put his foot in the door as § 87(2)(b) stepped away from the threshold to complete the DIR since the door was closing (**04 Board Review**). PO Lopez kept the door open to keep a proper view of § 87(2)(b) as he was speaking to the officers and a view of § 87(2)(b) since she was in the kitchen, where knives and other various implements are found and could be a threat to everyone's safety. § 87(2)(g)

PO Buccheri's BWC, contained in IA#41, captures the door fully opening at 2:27 while PO Lopez speaks with § 87(2)(b) (**01 Board Review**). No one tells PO Lopez to shut the door, and § 87(2)(b) exchanges words with § 87(2)(b) who is seated outside of the apartment, behind the officers. No one tells PO Lopez to shut the door or objects to his foot in the door within the first minute of the action. It is only once PO Buccheri steps slightly inside that § 87(2)(b) objects, telling the officers to shut the door. PO Buccheri refuses to shut the door, stating her discomfort with doing so, and PO Lopez is unseen from behind.

In People v. Brown, 234 A.D. 2d 211 (1996), a resident's gesture of opening an apartment door, leaving it open, and then walking away from it was interpreted as a valid form of implied consent (**09 Board Review**). Second in People v. Bunce, 141 A.D. 3d 536 (2016), the court found effective consent to be proved ex post facto by, "failing to ask them [the officers] to leave or otherwise indicating that they did not have permission to remain." (**08 Board Review**).

§ 87(2)(g)

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED] has been party to one other CCRB complaint § 87(2)(g) [REDACTED] (10 Board Review).
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (11 Board Review).
- Officer Lopez has been a member of service for two years and has been a subject in one other CCRB complaint and one other allegation, none of which were substantiated.
- Officer Buccheri has been a member of service for one year and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
- A request for Notice of Claim was submitted to the Office of the New York City Comptroller on October 4, 2019 and will be added to the case file upon receipt (14 Board Review).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date